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ART 34 AND
PCT

PATENT COOPERATION TREATY

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INTERNATIONAL PRELIMINARY EXAMINATION REPORT
(PCT Article 36 and Rule 70)

10/525398

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Applicant's or agent's file reference. 11034P3 WO/JCM	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/PEA/416)	
International application No. PCT/GB 03/03450	International filing date (day/month/year) 07.08.2003	Priority date (day/month/year) 29.08.2002
International Patent Classification (IPC) or both national classification and IPC B65D83/16		
Applicant RECKITT BENCKISER INC		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 5 sheets, including this cover sheet.
- ☒ This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).
- These annexes consist of a total of 2 sheets.

3. This report contains indications relating to the following items:

- I ☒ Basis of the opinion
- II ☐ Priority
- III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☐ Certain observations on the international application

Date of submission of the demand 26.03.2004	Date of completion of this report 13.12.2004
Name and mailing address of the international preliminary examining authority:  European Patent Office - P.B. 5818 Patentlaan 2 NL-2280 HV Rijswijk - Pays Bas Tel. +31 70 340 - 2040 Tx: 31 651 epo nl Fax: +31 70 340 - 3016	Authorized Officer Mans-Kamerbeek, M Telephone No. +31 70 340-3969 

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. **PCT/GB 03/03450**

I. Basis of the report

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17))*):

Description, Pages

1-4 as originally filed

Claims, Numbers

1-3 filed with telefax on 07.09.2004

Drawings, Sheets

1/5-5/5 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
- ☐ the claims, Nos.:
- ☐ the drawings, sheets:

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5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)

6. Additional observations, if necessary:

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	3
	No: Claims	1,2
Inventive step (IS)	Yes: Claims	
	No: Claims	1-3
Industrial applicability (IA)	Yes: Claims	1-3
	No: Claims	

2. Citations and explanations

see separate sheet

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Re Item V

Reasoned statement with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

Reference is made to the following documents:

D1: US-A-5 641 095 (DE LAFORCADE VINCENT) 24 June 1997 (1997-06-24)

D2: EP-A-0 341 636 (JOHNSON & SON INC S C) 15 November 1989 (1989-11-15)

1a)

The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claim 1 is not new in the sense of Article 33(2) PCT.

The document D1 discloses (the references in parentheses applying to this document):
an overcap for an aerosol container (8) consisting of a wall (11) capable of being attached to the container, a button (1, 2) having an actuating means (18) and a cavity (5) in the bottom thereof adapted to sealingly receive the free end of an aerosol valve stem (7) having a hollow bore which is in flow communication with an orifice (4) in the top of said body for releasing a pressurized liquid to be atomized, said orifice being coaxial with the central long axis of said cavity and bore, and a hinge (10) attaching the button to the wall, such that the configuration of the hinge causes the liquid escaping from the orifice to be dispensed along the central axis of the cavity as it is atomized into an aerosol spray pattern, whereby the wall provides the sole means for attaching the overcap to the container.

1b)

Dependent claim 2 does not contain any features which, in combination with the features of the claim to which it refers, meet the requirements of the PCT in respect of novelty and inventive step, see document D1.

2)

The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claim 3 does not involve an inventive step in the sense of Article 33(3) PCT.

The overcap that is described in claim 3 as the product of a set of dies, is known from

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the prior art (see D1).

Using a set of dies to manufacture (any kind of) plastic overcaps, comes within the scope of the customary practice followed by persons skilled in the art, this is illustrated in D2. Consequently, the subject-matter of claim 3 lacks an inventive step.

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ART 34 AMDT

Claims:

1. An overcap for an aerosol container comprising a wall capable of being attached to the
5 container, a button having an actuating means and a cavity in the bottom thereof adapted to
sealingly receive the free end of an aerosol valve stem having a hollow bore which is in flow
communication with an orifice in the top of said body for releasing a pressurized liquid to be
atomized, said orifice being coaxial with the central long axis of said cavity and bore, and a
10 hinge attaching the button to the wall, such that the configuration of the hinge causes the liquid
escaping from the orifice to be dispensed along the central long axis of the cavity as it is
atomized into an aerosol spray pattern.
2. The overcap of claim 1 wherein the hinge is a torsion hinge.
- 15 3. An overcap for an aerosol container comprising a wall capable of being attached to the
container, a button having an actuating means and a cavity in the bottom thereof adapted to
sealingly receive the free end of an aerosol valve stem having a hollow bore which is in flow
communication with an orifice in the top of said body for releasing a pressurized liquid to be
atomized, said orifice being coaxial with the central long axis of said cavity and bore, and a
20 torsion hinge attaching the button to the wall, such that the configuration of the torsion hinge
causes the liquid escaping from the orifice to be dispensed along the central long axis of the
cavity as it is atomized into an aerosol spray pattern.